

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Ihab Mounir Ahmed

A# 074-916-296

Plaintiff	WRIT OF MANDAMUS
v.	No. _____
ANDREA QUARANTILLO, District Director U.S. Citizenship and Immigration Services)
ROBERT MUELLER, Director of the Federal Bureau of Investigation)
ALBERTO GONZALES, Attorney General Of the United States)
MICHAEL CHERTOFF, Secretary of the Department Of Homeland Security.)
Defendants.)

I. INTRODUCTION

1. This is a civil action brought by the Plaintiff, to compel Defendants and those acting under them to schedule the Plaintiff Mr. Ihab Mounir Ahmed for an Oath Ceremony for Citizenship.

II. JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1361 [to compel an officer or employee of the United States or agency thereof to perform a duty owed to the plaintiff] and 5 U.S.C. §§ 704 [no other adequate remedy] and 706 [to compel agency action unlawfully withheld or unreasonably delayed].
3. Venue is proper in this Court pursuant to 28 U.S.C. §1391(e)(1) based upon the residence of the Plaintiff and the residence of Defendant

III. PARTIES

4. Plaintiff Ihab Mounir Ahmed is a lawful permanent resident of the United States (A# 074-916-296) and an applicant for naturalization since February 4, 2004. He is a resident of Mohegan Lake, New York.
5. Defendant Andrea Quarantillo is being sued in her official capacity as the Director of the New York District Office of the Department of Homeland Security, Citizenship and Immigration Services (hereinafter CIS), the office which conducted Plaintiff's interview for naturalization and which has jurisdiction over his application.
6. Defendant Robert Mueller is being sued in his official capacity as the Director of the Federal Bureau of investigation, the agency responsible for performing the background and security checks required before an application for naturalization can be adjudicated.
7. Defendant, Alberto Gonzales is being sued in his official capacity as the Attorney General of the US Department of Justice.
8. Defendant, Michael Chertoff is being sued in his official capacity as the Secretary of the Department of Homeland Security, the office which despite several attempts, failed to respond to the above caption matter.

IV. FACTUAL ALLEGATIONS

9. Plaintiff Ihab Mounir Ahmed's copy of passport, **exhibit "A"** and copy of green card, **exhibit "B"**, are included within. Plaintiff Ihab Mounir Ahmed filed an N-400 application for naturalization on or about July 1st 2003, included is the interview notice, **exhibit "C"**. He was interviewed on February 4, 2004. He passed his English language and Government examinations on that date. However, he was given notice that he could not be recommended for final approval because his security checks were not complete.
10. Plaintiff meets all the requirements for naturalization in that he is over the age of 18; he is a person of good moral character; he has been a permanent resident for five years; he has the required physical presence in the United States; he passed the required examinations; and he is attached to the principals of the Constitution and the Government of the United States.
11. There is no evidence that he falls into any of the categories of statutory ineligibility.

12. Since his interview, Plaintiff has made numerous efforts to get Defendants to complete his security checks and adjudicate his application, including but not limited to: making written inquiry to the DHS; writing to various Government officials. Marked and annexed hereto as **exhibit "D"** is the copy of proof that Plaintiff Ihab Mounir Ahmed passed the citizenship interview. Marked and annexed hereto as **exhibit "E"** is the copy of the inquiry sent to the District Director by the Plaintiff's attorney, Naresh M. Gehi dated January 8, 2007. Marked and annexed hereto as **exhibit "F"** is the copy of the inquiry sent to Ombudsman, Hon. Prakash Khatri, and United States Department of Homeland Security on the above captioned matter dated January 9, 2007. Marked and annexed hereto as **exhibit "G"** is the copy of the reply sent by Ombudsman, Hon. Prakash Khatri, regarding the above captioned inquiry dated February 21, 2007. Marked and annexed hereto as **exhibit "H"** is copy of reply sent by United States Department of Homeland Security, regarding the above captioned inquiry dated March 21, 2007.

13. Plaintiff has exhausted his administrative remedies. As of his latest, his security clearances were still pending.

14. As a result of Defendants' willful and unreasonable delay in adjudicating Plaintiff's application, Plaintiff has been unable to bring his spouse to the United States; has lost valuable job opportunities; has been deprived of his peace of mind; and deprived of important benefits, rights and protections to which he would be entitled as a citizen of the United States.

V. STATUTORY AND REGULATORY FRAMEWORK

15. The Immigration and Nationality Act provides for the naturalization of lawful permanent residents of the United States who meet the requirements set forth therein. 8 U.S.C. §1445 et seq. The Act specifies that the filing of an N-400 application shall trigger a background investigation of the applicant, including a review of all pertinent immigration and police records. 8 U.S.C. §1446(a). In this case, the N-400 application was filed on July 1, 2003. Approximately four years have passed since the background investigation should have commenced.

16. In addition, the regulations provide that said investigation of the applicant shall be completed before any examination of the applicant takes place. 8 C.F.R. §335.2(b). However, at the time of Plaintiff's examination on February 4, 2004, the background investigation had not been completed.

17. Neither the INA nor the regulations provide a mandatory timeframe in which security clearances must be completed. However, the regulations do require

that once an applicant is interviewed, the decision to grant or deny shall be made within 120 days by the USCIS thereof. 8 C.F.R. §335.3. It has been nearly three years and 4 months since Plaintiff was interviewed. (February 4, 2004)

18. Plaintiff re-alleges Paragraphs one through seventeen as though fully set forth herein.
19. Defendants have willfully and unreasonably delayed in the completion of the security checks required for final adjudication of Plaintiff's naturalization application.
20. The delay in completing the required background checks cannot be attributed to Plaintiff in any way.
21. Plaintiff has exhausted any administrative remedies that might exist. No other remedy exists for him to resolve Defendants' delay.

VI. REQUEST FOR RELIEF

WHEREFORE, Petitioner Ihab Mounir Ahmed, respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Find that Respondent FBI has unreasonable and unlawfully delayed in completing the necessary background checks in a timely manner, and has unreasonably and unlawfully delayed in providing the results of background checks to the CIS;
3. Direct that the FBI complete any and all necessary name checks or other background or security checks within 30 days, and promptly provide the results to USCIS;
4. Review *de novo* Petitioner's application for naturalization, determine that he meets all the requirements for citizenship, grant him naturalization, and direct that USCIS promptly schedule an oath ceremony and issue his Certificate of Citizenship;
5. If necessary, order that a hearing take place concerning his application of naturalization;
6. Award reasonable costs and attorney's fees pursuant to the Equal Access to Justice Act; and
7. Grant any and all further relief this Court deems just and proper.

Dated this 14 day of June, 2007.

Respectfully submitted,



Naresh M. Gehi, ESQ.
Attorney for Plaintiff

Naresh M. Gehi, P.C
The Pickman Building
118-21 Queens BLVD., Suite 411, 4th Floor
Forest Hills, NY 11375
(718)-263-5999

EXHIBIT ‘A’

33

VISAS

الشیرات



IMMIGRATION CANADA
ADMISSION:
24 FE 1997
EXPIRATION:
23 M 1997

2

1318

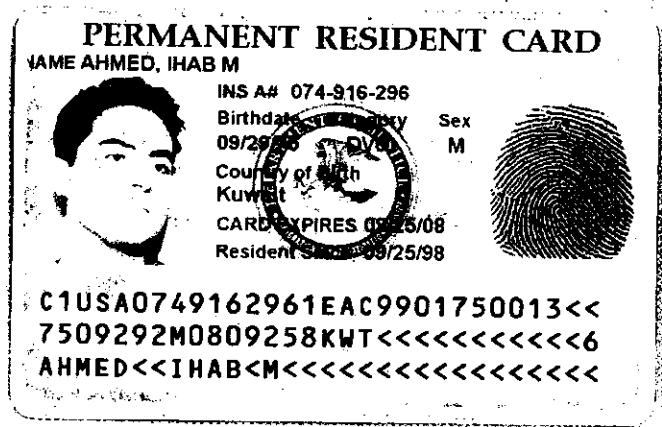
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NAME / NOM / VILLE / A	DATE OF ISSUE / DATE D'EMISSION	EXPIRATION DATE / DATE D'EXPIRATION
CAIRO	2670871996	2670271997
NUMBER OF ENTRIES - N° D'ENTRÉES	DOCUMENT NUMBER / NUMERO DE DOCUMENT	
ONE	E420003996	
CATEGORY / CATÉGORIE	VISITOR	
V-1		
SURNAME / NOM DE FAMILLE	GIVEN NAME - PRÉNOM	
AHMED, IHAB MOUNIR		
PASSPORT NUMBER / N° D'AUTORISATION	PERSON(S) / PERSONNE(S)	
297000	ONE	V960800492
ISSUED BY / ÉDITÉ PAR		
PPA		

V<CANAHMED<<IHAB<MOUNIR<<<<<<<<<<<<<<<<<<
297386<<9EGY7509292M97D2260E420003996160112

7

EXHIBIT ‘B’



b

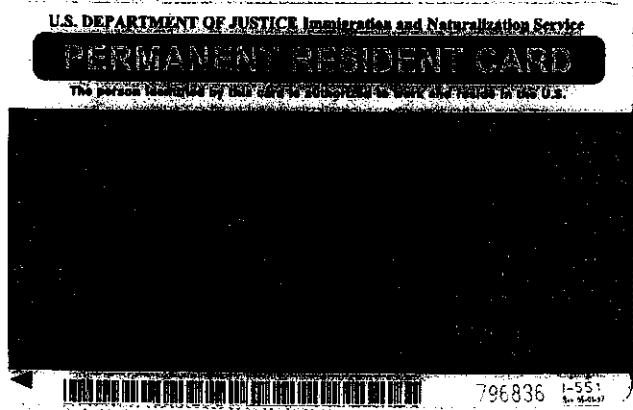


EXHIBIT ‘C’

Notice of Action

Filed 06/21/2007

Request for Applicant to Appear for Naturalization Initial Interview

CASE TYPE

N400 Application For Naturalization

APPLICATION NUMBER

ESC-N01058964

RECEIVED DATE

July 01, 2003

APPOINTMENT DATE

July 01, 2003

NOTICE DATE

November 14, 2003

DSSN

A 07-916 295

PAGE

1 of 1

ADDRESS/EXTRA ADDRESS/MAILING ADDRESS

JHAB MOJUMR AHMED
 Co. EMILIANO J. DEGUZMAN ESQ.
 EMIL DEGUZMAN ESQ & ASSOCIATES
 319 BROADWAY THIRD FLOOR
 NEW YORK NY 10007

MILLINER@YAHOO.COM

Please come to:

U.S. IMMIGRATION & NATURALIZATION SERVICE
 26 FEDERAL PLAZA ROOM 7-700
 U.S.I.N.S. 7TH FLOOR ROOM 7-700
 MAIL ROOM
 NEW YORK NY 10278

On (Date): Wednesday, February 04, 2004

At (Time): 10:40 AM

You are hereby notified to appear for an interview on your application for Naturalization at the date, time, and place indicated above. Waiting room capacity is limited. Please do not arrive earlier than 30 minutes before your scheduled appointment time. The proceeding will take about two hours. If for any reason you cannot keep this appointment, return this letter immediately to the INS office address listed below for re-scheduling and a request for a new appointment. Otherwise, no further action will be taken on your application.

If you are applying for citizenship for yourself, you will be tested on your knowledge of the government and history of the United States. You will also be tested on reading, writing and speaking English. Unless on the day you filed your application, or you have been living in the United States for a total of at least 20 years, you are a lawful permanent resident and are less than 50 years old, unless you have a medically determinable disability (see section 212(d)(5) of the Act) filed Form N-648 Medical Certification for Disability Exception, with your N-400 Application for Naturalization.

You MUST BRING the following with you to the interview:

- This letter
- Your Alien Registration Card (green card)
- Any evidence of Selective Service Registration
- Your passport and/or any other documents you used in connection with any entries into the United States
- Those items noted below which are applicable to you:

If applying for NATURALIZATION AS THE SPOUSE of a United States Citizen:

- Your marriage certificate
- Proof of birth or divorce for each prior marriage of yourself or spouse
- Your spouse's birth or naturalization certificate or certificate of citizenship

If applying for NATURALIZATION as a member of the United States Armed Forces:

- Your discharge certificate, or form DD 214

If copies of a document were submitted as evidence with your N-400 application, the originals of those documents should be brought to the interview.

PLEASE keep this appointment, even if you do not have all the items indicated above.

If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address; or a Customer Service number. You will be notified separately about any other cases you may have filed.

INS Office Address:

U.S. IMMIGRATION AND NATURALIZATION SERVICE
 7TH FLOOR ROOM 7-700
 26 FEDERAL PLAZA
 NEW YORK NY 10278

INS Customer Service Number:
 (800) 375-5283

REPRESENTATIVE COPY



EXHIBIT 'D'

74 116 296
GERMANOn 2/4/04, you were interviewed by INS Officer _____

- You passed the tests of English and U.S. history and government.
- You passed the test of U.S. history and government and the English language requirement was waived.
- The Service has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- You will be given another opportunity to be tested on your ability to _____ speak / _____ read / _____ write English.
- You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- Please follow the instructions on the Form N-14.
- INS will send you a written decision about your application.
- You did not pass the second and final test of your _____ English ability / _____ knowledge of U.S. history and government. You will not be rescheduled for another interview for this N-400. INS will send you a written decision about your application.

A) _____ Congratulations! Your application has been recommended for approval. At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B) _____ A decision cannot yet be made about your application.

It is very important that you:

- ✓ Notify INS if you change your address.
- ✓ Come to any scheduled interview.
- ✓ Submit all requested documents.
- ✓ Send any questions about this application in writing to the officer named above. Include your full name, A-number, and a copy of this paper.
- ✓ Go to any oath ceremony that you are scheduled to attend.
- ✓ Notify INS as soon as possible in writing if you cannot come to any scheduled interview or oath ceremony. Include a copy of this paper and a copy of the scheduling notice.

EXHIBIT ‘E’

LAW OFFICES OF N.M. GEHI, P.C.

ATTORNEYS & COUNSELLORS AT LAW

THE PICKMAN BUILDING • 118-21 QUEENS BLVD. • SUITE 411, 4TH FL. • FOREST HILLS, NY 11375
TEL.: (718) 263-5999 • FAX: (718) 263-1685

January 8, 2007

District Director
U. S. Immigration & Naturalization Service
26 Federal Plaza-Room 7-700
Main Room
New York, NY 10278

RE: Ihab Mounir Ahmed
A; 74-916-296; ESC*001058964

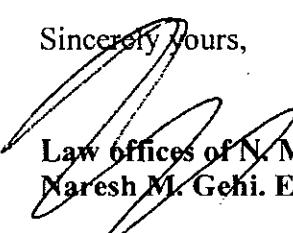
Request to Schedule Oath Ceremony

Dear Dist. Director:

I am the newly retained attorney for the above mentioned client and form G-28 is enclosed herewith for your reference. My client filed his Naturalization application on 07/01/2003 and was interviewed by Officer German on 02/04/2004 for his Naturalization initial interview. After his interview, my client was provided with Form N-652 verifying the successful completion of his Naturalization Initial interview soon to be followed by a decision via mail.

After several trips to the USCIS service center at New York, my client was finger printed again on 06/13/2006 in reference to his Naturalization application but is yet to be scheduled for his Oath Ceremony. It has been an exceptionally long time and my client has not received any response from the USCIS about his case. Therefore, I would very much appreciate it if my client is scheduled for his Oath Ceremony as soon as possible. Thank you.

Sincerely yours,


Law offices of N. M. Gehi, P. C.
Naresh M. Gehi, Esq.,

Encl: 1) Form G-28
2) Form N-652 dated 02/04/2004
3) Copy of Finger Print Notification dated 6/9/2006

CC: 1) Office of the Citizenship and Immigration Services Ombudsman

EXHIBIT 'F'

LAW OFFICES OF N.M. GEHI, P.C.

ATTORNEYS & COUNSELLORS AT LAW

THE PICKMAN BUILDING • 118-21 QUEENS BLVD. • SUITE 411, 4TH FL. • FOREST HILLS, NY 11375
 TEL.: (718) 263-5999 • FAX: (718) 263-1685

January 9, 2007

Hon. Prakash Khatri
 Office of the Citizenship and Immigration Services Ombudsman
 U.S. Department of Homeland Security.
 Mail Stop 1225
 Washington, D. C. 20528-1225

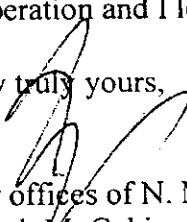
RE: OATH CEREMONY SCHEDULE REQUEST
Ihab Mounir Ahmed-A0074-916-296

Dear Hon. Khatri:

I represent Ihab Mounir Ahmed in connection with his Naturalization application and enclosed herewith is a copy of the form G-28 for your reference. My client filed his Naturalization application on 07/01/2003 and was interviewed by Officer German on 02/04/2004 for his Naturalization initial interview. After his interview, my client was provided with Form N-652 verifying the successful completion of his Naturalization Initial interview soon to be followed by a decision via mail. After several trips to the USCIS service center at New York, my client was finger printed again on 06/13/2006 in reference to his Naturalization application. Several subsequent inquiries at the service center in person have yielded no response from the USCIS regarding my client's Oath Ceremony schedule.

It has been an exceptionally long time and my client has not yet received any reply from the USCIS regarding his Oath Ceremony. I would very much appreciate it if you would assist us in following-up this matter. Thank you very much for your anticipated help and cooperation and I look forward to hearing from you.

Very truly yours,


 Law offices of N. M. Gehi. P. C.
 Naresh M. Gehi

Encl: 1) Form G-28
 2) Copy of Form N-652 dated 02/04/2004
 3) Copy of Finger Print Notification dated 6/9/2006

CC: 1) Federal Plaza

EXHIBIT ‘G’

U.S. Department of Homeland Security
Mail Stop 1225
Washington, D.C. 20528-1225



Homeland Security

February 21, 2007

Mr. Naresh M. Gehi, Esq.
Law Offices Of N.M. Gehi, P.C.
Attorneys & Counsellors at Law
The Pickman Building
118-21 Queens Blvd., Suite 411
Forest Hills, NY 11375

Re: Mr./Ms. Ihab Mounir Ahmed

Dear Mr. Gehi:

Thank you for your recent inquiry regarding your immigration issue.

Upon receipt of your information, the office of the Citizenship and Immigration Services Ombudsman (CIS Ombudsman) initiated a formal inquiry with the U.S. Citizenship and Immigration Services (USCIS). USCIS should issue a response to you within forty-five (45) days. If you do not receive a response within this period, please notify our office.

Please be aware that although the office of the CIS Ombudsman collaborates with USCIS, it is an independent entity within the Department of Homeland Security (DHS). The office of the CIS Ombudsman is charged with assisting individuals who experience difficulties with the USCIS benefits process. Additionally, the office of the CIS Ombudsman is dedicated to identifying systemic problems in the immigration benefits process, and to recommending solutions to USCIS. Therefore, the concerns you raised in your letter will be considered as our office develops recommendations to improve USCIS' administrative practices.

Once again, thank you for contacting the office of the CIS Ombudsman, and for giving us the opportunity to serve you.

Sincerely,

Prakash Khatri
Ombudsman

PIK/raa
RPW

EXHIBIT ‘H’



**U.S. Citizenship
and Immigration
Services**

HQCIS 181/48.2-C

MAR 21 2007

Law Offices of N.M. Gehi, P.C.
Suite 411
118-21 Queens Boulevard
Forest Hills, NY 11375

Dear Mr. Gehi:

Thank you for your letter dated January 9, 2007, to the U.S. Citizenship and Immigration Services Ombudsman (CISO). Your letter concerning your client's (Ihab Mounir Ahmed) immigration status was assigned case # 620941 and forwarded to the Customer Assistance Office for a response.

We regret the length of time it has taken to process your client's Form N-400 for naturalization. The processing of his case has been delayed. A check of our records establishes that his case is not yet ready for decision, as the required investigation into his background remains open. Until his background investigation has been completed, we cannot move forward on his case.

These background checks are required to be completed on all applicants who apply for the immigration benefit that your client is seeking. Background checks may be considered pending when either the FBI or relevant agency has not provided the final response to the background check or when the FBI or agency has provided a response, but the response requires further investigation or review by the agency or USCIS.

We will make every effort to make a decision on Mr. Ahmed's case as soon as the background checks are complete. For additional assistance, please contact customer service at 1-800-375-5283.

We trust that this information is helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Christine Gooding".

Christine Gooding, Supervisor
Customer Assistance Office
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security

VERIFICATION

I, IHAB MOUNIR AHMED, being duly sworn deposes and states that I am the Applicant in the within action; I am executing this Verification; I have read the Statement of Facts that is being submitted to the USCIS by my attorney and I know the contents thereof; and the same is true to my knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true.



Ihab A
IHAB MOUNIR AHMED

Sworn to before me this on 8 day of June, 2007

NOTARY PUBLIC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a copy of the foregoing Complaint for a Writ of Mandamus by first-class mail, certified return receipt, postage prepaid, this _____ day of June 2007 on:

Andrea Quarantillo, District Director
US Citizenship & Immigration Services
26 Federal Plaza
NY, NY 10278

Robert Mueller, Director
Federal Bureau of Investigation
935 Pennsylvania Ave., N.W.
Washington, D.C. 20535-0001

Alberto Gonzales, Attorney General
US Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20528-0001

Office of the United States Attorney
Southern District of New York
86 Chambers St.
New York, NY 10007

Michael Chertoff, Secretary of the
Department of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Naresh M. Gehi, ESQ.

Naresh M. Gehi, P.C
The Pickman Building
118-21 Queens BLVD., Suite 411, 4th Floor
Forest Hills, NY 11375
(718)-263-5999